



CITY OF SAN JOSÉ, CALIFORNIA

MINUTES OF THE CITY COUNCIL

SAN JOSE, CALIFORNIA

TUESDAY, SEPTEMBER 20, 2005

The Council of the City of San Jose convened in Regular Session at 9:32 a.m. in Council Chambers at City Hall.

Present: Council Members: Campos, Chavez, Chirco, Cortese, LeZotte, Pyle, Reed, Williams, Yeager; Gonzales.

Absent: Council Members: None.

Upon motion unanimously adopted, the City Council recessed to Closed Session at 9:35 a.m. in Room 600 to (A) confer with Legal Counsel regarding existing litigation pursuant to Government Code Section 54956.9 Subsection (a) to consider cases of In Re: Garden City, Inc.; Comcast of California II, L.L.C. v. City of San José; County of Santa Clara v. City of San José, et al.; City of Milpitas v. City of San José, et al.; City of Santa Clara v. City of San José, et al.; (B) to confer with Labor Negotiator pursuant to Government Code Section 54957.6: City Negotiator: City Manager designee Alex Gurza; Employee Organizations: (1) San José Police Officers' Association, (2) International Association of Firefighters, (3) Confidential Employees Organization.

By unanimous consent, Council reconvened from Closed Session and recessed at 10:45 a.m. and reconvened at 1:31 p.m. in Council Chambers, City Hall.

Present: Council Members: Campos, Chavez, Chirco, Cortese, LeZotte, Pyle, Reed, Williams, Yeager; Gonzales.

Absent: Council Members: None.

INVOCATION (DISTRICT 8)

Pastor John K. Helveston from East Valley Church delivered a prayer.

PLEDGE OF ALLEGIANCE

Mayor Gonzales led the Pledge of Allegiance.

ORDERS OF THE DAY

Upon motion by Council Member Williams, seconded by Council Member Chirco, and unanimously carried, the Order of the Day and the Amended Agenda were approved. (10-0).

CEREMONIAL ITEMS

1.1 Presentation of a proclamation to the American Lung Association. (Chavez) HEARD IN THE EVENING

Action: Vice Mayor Chavez presented a proclamation to Executive Director of the American Lung Association Margo Cidner in honor of “Breathe Easier Day” on October 8, 2005.

1.2 Swearing-In ceremony for the City-Wide Youth Commissioner, Shanna Cook. (City Clerk) HEARD IN THE EVENING

Action: Mayor Gonzales was joined by City Clerk Lee Price at the podium to administer the Oath of Office to City-Wide Youth Commissioner Shanna Cook.

1.3 Presentation of a proclamation recognizing September 2005 as “National 5 A Day Month”, urging all citizens to join in promoting public health messages and policies that support healthy nutrition and increased physical activity. (Mayor/Chavez) (Rules Committee referral 9/14/05)

Action: Mayor Gonzales and Vice Mayor Chavez presented a proclamation recognizing September 2005 as, “National 5 A Day Month”, urging all citizens to join in promoting public health messages and policies that support healthy nutrition and increased physical activity.

1.4 Presentation of a proclamation recognizing September 21, 2005 as the “International Day of Peace in the City of San José. (Cortese) (Rules Committee referral 9/14/05)

Action: Council Member Cortese and Mayor Gonzales presented a proclamation to Reverend Grace O’Brien of the Center of Spiritual Enlightenment, recognizing September 21, 2005, as the “International Day of Peace in the City of San Jose”.

- 1.5 Presentation of a commendation to recognize the outstanding dedication and contributions of Dan Erceg to the North Willow Glen and Greater Gardner Communities. (Chavez/Yeager)
(Rules Committee referral 9/14/05)
HEARD IN THE EVENING**

Action: Council Member Yeager and Vice Mayor Chavez joined Mayor Gonzales to present a commendation to Dan Erceg in recognition of his outstanding dedication and contributions to the North Willow Glen and Great Gardner Communities.

- 1.6 Presentation of a commendation to St. Martin of Tours School in recognition of its 50th anniversary. (Yeager)
(Rules Committee referral 9/14/05)**

Action: Mayor Gonzales and Council Member Yeager presented a commendation to the Student Council President Bridgette McKennenny of St. Martin of Tours School in recognition of its 50th anniversary.

- 1.7 Mayor Gonzales presented an award of recognition to Interim Chief of Staff for District 7 Jim Webb for outstanding professional skill and exemplary service to the residents of District 7.**

STRATEGIC SUPPORT SERVICES

- 3.9 Appointment and swearing in of Council Member Elect Madison Nguyen to the City Council to fill the vacancy for the unexpired term ending December 31, 2006 in Council District 7. (Mayor)
(Rules Committee referral 9/14/05)**

Documents Filed: Memorandum from Mayor Gonzales, dated September 16, 2005, recommending the appointment of Council Member Elect Madison Nguyen.

Public Comments: Tim Callahan and Hilda Arenas spoke in support of the appointment.

Action: The appointment was approved and City Clerk Lee Price and the Honorable Judge Tang Barrett administered the Oath of Office to Council Member –Elect Madison P. Nguyen. (10-0).

CONSENT CALENDAR

Upon motion by Council Member Chavez, seconded by Council Member Williams and unanimously carried, the Consent Calendar was approved as indicated with the exception of, Item 2.5 (pulled by Council Member Campos). (11-0).

2.1 Approval of Minutes.

- (a) **Regular Minutes of March 1, 2005**
- (b) **Regular Minutes of March 8, 2005**
- (c) **Regular Minutes of March 15, 2005**
- (d) **Regular Minutes of March 22, 2005**
- (e) **Joint Council/Redevelopment Agency Minutes of March 22, 2005**
- (f) **Regular Minutes of March 29, 2005**

Documents Filed: Regular minutes of March 1, 8, 15, 22, and 29, 2005, and Joint Council/Redevelopment Agency Minutes of March 22, 2005.

Action: The minutes were approved. (11-0).

2.3 Adoption of a resolution authorizing the City Manager to negotiate and execute a fifth amendment to extend the United Parcel Service, Inc. lease for premises located at 1277 Airport Boulevard from October 1, 2005 through September 30, 2010, with annual revenue to the City of \$115,047. CEQA: Resolution Nos. 67380 and 71451, PP 05-166. (Airport)

Documents Filed: Memorandum from Director of Aviation William F. Sherry, A.A.E, dated August 29, 2005, recommending approval of the fifth amendment.

Action: Resolution No. 72887, entitled: “A Resolution of the Council of the City of San José Authorizing the City Manager to Negotiate and Execute a Fifth Amendment to the Lease of Premises with United Parcel Service, Inc., from October 1, 2005 Through September 30, 2010, with Annual Revenue to the City of \$115,047”, was adopted. (11-0).

2.4 Acceptance of the Public Art Workplan for Public Safety Bond Projects. CEQA: Not a Project. (Economic Development)

Documents Filed: Memorandum from Director of Economic Development Paul Krutko, dated September 9, 2005, recommending acceptance of the workplan.

Action: The workplan was accepted. (11-0).

2.5 Approval of actions regarding the Bureau of Justice Assistance (BJA) grant:

- (a) **Adoption of a resolution accepting the FY 2005 Human Trafficking Prevention Grant in the amount of \$225,000 and authorizing the City Manager to execute the grant agreement and all related documents.**
- (b) **Adoption of amendments to the annual appropriation ordinance and the funding sources resolution in the General Fund as follows:**
 - (1) **Establish a City-wide appropriation to the Police Department for the FY 2005 Human Trafficking Prevention Grant in the amount of \$75,000;**
 - (2) **Increase the Earned Revenue Estimate from Federal Government by \$75,000.**

CEQA: Not a Project. (Police/City Manager’s Office)

2.5 (Cont'd.)

Documents Filed: Memorandum from Budget Director Larry D. Lisenbee and Police Chief Robert L. Davis, dated August 29, 2005, recommending adoption of the resolution and amendments.

Action: Ordinance No. 72553, entitled: "An Ordinance of the City of San José Amending Ordinance No. 27474 to Appropriate Moneys in the General Fund for the Fiscal Year 2005 Human Trafficking Prevention Grant; and Providing That This Ordinance Shall Become Effective Immediately Upon Adoption", Resolution No. 72888, entitled: "A Resolution of the Council of the City of San José Authorizing the City Manager to Accept the Fiscal Year 2005 Human Trafficking Prevention Grant in an Amount Not to Exceed \$225,000 and to Execute the Grant Agreement and All Related Documents", and Resolution No. 72889, entitled: "A Resolution of the Council of the City of San José Amending Resolution No. 72762 Setting Forth the Estimated Sources of Funds for the Fiscal Year 2005-2006 to Adjust Revenues in the General Fund", with direction to the Police Chief requested to provide Council with a status update via an informational memo. (11-0).

2.6 **Report on bids and award of contract for the Animal Care Center Landscape Improvements Phase II Project to the low bidder, Planned Environments, Inc. to include the base bid and Add Alternate No.1, in the amount of \$335,390, and approval of a contingency in the amount of \$30,000. CEQA: Mitigated Negative Declaration, H01-01-003. (Public Works/Parks, Recreation and Neighborhood Services)**

Documents Filed: Memorandum from Director of Public Works Katy Allen and Director of Parks, Recreation and Neighborhood Services Sara L. Hensley, dated September 7, 2005, recommending the report on bids and award of contract.

Action: The report on bids and award were approved. (11-0).

2.7 **Approval of Council Member Williams' travel to Dallas, Texas, September 24-29, 2005, to attend the American Public Transportation Agency Conference. Funding: Santa Clara Valley Transportation Agency. (Williams) (Rules Committee referral 9/14/05)**

Documents Filed: Memorandum from Council Member Williams, dated September 13, 2005, recommending approval of Council Member Williams' travel.

Public Comments: Daniel MacCallum spoke in support of Council Member Williams' travel.

Action: Council Member Williams' travel was approved. (11-0).

- 2.8 Adoption of a resolution authorizing the City Manager to negotiate and execute an amendment to the grant agreement with San José Stage Company for an additional amount not to exceed \$68,279, increasing the total amount from \$74,560 to a total not to exceed amount of \$142,839 for the two year term of the grant agreement. CEQA: Not a Project. Council District 3. (Economic Development) (Rules Committee referral 9/14/05)**

Documents Filed: Memorandum from Director of Economic Development Paul Krutko, dated September 13, 2005, recommending adoption of the resolution.

Action: Resolution No. 72890, entitled: “A Resolution of the Council of the City of San José Authorizing the City Manager to Negotiate and Execute a First Amendment to the Grant Agreement with San José STAGE Company in an Additional Amount Not to Exceed \$68,279 for a Total Grant Amount of \$142,839 for a Two-Year Term”, was adopted. (11-0).

STRATEGIC SUPPORT SERVICES

3.2 Report of the Rules Committee – September 7, 2005 Vice Mayor Chavez, Chair

Documents Filed: Rules Committee report of September 7, 2005. .

- (a) Redevelopment Agency items reported out at Redevelopment Agency meeting
- (b) City Council
 - (1) Review September 20, 2005 Council Agenda
The Committee recommended approval of the September 20, 2005 City Council Agenda with two additions.
 - (2) Add New Items to September 13, 2005 Agenda
The Committee recommended six additions to the September 13, 2005 City Council Agenda.
 - (3) List of Reports Outstanding. Attachment: Report from the City Manager’s Office dated September 7, 2005, listing three (3) staff reports outstanding for the September 13, 2005 City Council Meeting.

The Committee noted and filed the City Manager’s Report.

3.2 (c) Legislative Update

(1) State

- (a) 2005 League of California Cities Voting Delegate at the Annual Business Meeting. Attachment: Memorandum from Betsy Shotwell, Director, Intergovernmental Relations dated September 6, 2005, regarding the 2005 League of California Cities Voting Delegate at the Annual Business Meeting.

The Committee recommended the proposed designation of Council Nora Campos, as the City's voting delegate at the October 8, 2005 Annual Business Meeting for the League of California Cities.

- (2) Federal – There was no report.

(d) Meeting Schedules

- (1) Getting Families Back to Work Study Session. Attachment: Memorandum from the Mayor Ron Gonzales, dated August 31, 2005, regarding Getting Families Back to Work Study Session.

The Committee recommended rescheduling the Getting Families Back to Work study sessions from October 5-6 to October 27-28, 2005.

- (e) The Public Record. Attachment: Memorandum from the City Clerk dated September 1, 2005, transmitting items filed for the Public Records for the period August 24 – August 30, 2005.

The Committee noted and filed the Public Record.

- (f) Appointments to Boards, Commissions and Committees – There were none.

(g) Rules Committee Reviews, Recommendations and Approvals

- (1) Payment/Performance Bond Program for Small Business Contractors Workload Assessment. Attachment: Memorandum from Council Member Cortese dated August 30, 2005, regarding referral – Small Business Development Commission

The Committee recommended deferral of this item to the September 14, 2005 Rules Committee Meeting.

- 3.2(g)** (2) Approval of Travel by Mayor Gonzales to Long Beach, California, September 21-24, 2005, to attend the United States Conference of Mayors – Mayors’ National Education Summit; and the United States Conference of Mayors – 2005 Fall Leadership Meeting. Source of Funds: Mayor and Council Travel Fund. Attachment: Memorandum from Mayor Ron Gonzales, dated September 1, 2005, requesting authorization to travel to Long Beach, California, September 21-24, 2005, to attend the United States Conference of Mayors – Mayors’ National Education Summit; and the United States Conference of Mayors – 2005 Fall Leadership Meeting. Source of Funds: Mayor & Council Travel Fund.

The Committee recommended approval to travel and use of the Mayor and Council Travel Fund.

- (3) Approval of Travel by Mayor Gonzales to San Antonio, Texas, September 25-28, 2005, to attend the National League of Cities – Institute for Youth, Education and Families – 2005 National Summit on Your City’s Families Education Summit. Source of Funds: Mayor and Council Travel Fund. Attachment: Memorandum from Mayor Ron Gonzales, dated September 1, 2005, requesting authorization to attend the National League of Cities – Institute for Youth, Education and Families – 2005 National Summit on Your City’s Families Education Summit. Source of Funds: Mayor & Council Travel Fund.

The Committee recommended approval to travel and use of the Mayor and Council Travel Fund.

- (4) Megan’s Law Discussion. Attachment: Memorandum from Vice-Mayor Chavez dated September 2, 2005, regarding a discussion on Meghan’s Law.

The Committee recommended deferral of this item to the September 14, 2005 Rules Committee Meeting.

- (h) Oral Communications
Bill Chew asked if the City could broadcast emergency preparedness and safety programming on CivicCenter Television Channel. He also asked if the City has established a method to receive feedback from the public broadcasting of committee meetings.

- (i) Adjournment
The meeting adjourned at 2:10 p.m.

Action: Upon motion by Vice Mayor Chavez, seconded by Council Member Yeager, and unanimously carried, the Rules Committee report and actions of September 7, 2005 were accepted. (11-0).

**3.4 Discussion and direction to staff of a proposed amendment to the Municipal Code which would provide that payments by an employer to an employee who works on municipal political campaigns, are to be treated as campaign contributions, subject to the City's campaign contribution limits and disclosure requirements. (City Attorney's Office)
(Rules Committee referral 8/31/05)
(Deferred from 8/16/05 – Item 2.14 and 9/13/05 – Item 3.6)**

Documents Filed: (1) Memorandum from Council Member Pyle and Council Member Williams, dated September 19, 2005, recommending acceptance of the proposed amendment with no changes to the City's Campaign Ordinance that redefines a contribution in accordance with Council Member Reed's proposed amendment. (2) Memorandum from City Attorney Rick Doyle, dated September 16, 2005, providing background information on Campaign Contributions. (3) Memorandum from City Attorney Rick Doyle, dated August 12, 2005, providing background information on Campaign Contributions – Employee Work on Political Campaign. (4) Memorandum from Council Member Reed, dated August 15, 2005, recommending direction to staff to amend the Municipal Code to provide that San José elections: (a) Employers who pay their employees to work on political campaigns are subject to San José's campaign contribution limits as if the payments were made directly to the campaign committee, (b) Campaign committees who receive services from people who are being paid while working on the campaign must report those services as campaign contributions subject to San José's limits.

Public Comments: Jay Rosenthal and Ross Signorino spoke in support of the ordinance.

Phaedra Ellis-Lamkins, Robert Lindley, Claudia Shope, and Fred Hirsch spoke in opposition of the ordinance.

Discussion: Council Member Reed and Council Member Cortese stated they would not support the motion due to the lack of disclosure within the ordinance.

Action: Council approved a memorandum from Council Member Pyle and Council Member Williams, dated September 19, 2005, recommending accepting no changes to the City's Campaign Ordinance as outlined in Councilmember Reed's proposed amendment, dated August 15, 2005. (9-0). Noes: Cortese, Reed.

3.5 Adoption of an ordinance ratifying the final 2004-2005 appropriation increases in various funds. CEQA: Not a Project. (City Manager's Office)

Documents Filed: Memorandum from Budget Director Larry D. Lisenbee, dated September 13, 2005, recommending adoption of the ordinance.

Action: Upon motion by Vice Mayor Chavez, seconded by Council Member Yeager, and unanimously carried, Ordinance No. 27545, entitled: "An Ordinance of the City of San José Authorizing and Ratifying Certain Encumbrances and/or Expenditures in Various Funds Made During City's 2004-2005 Fiscal Year in Excess of Sums Appropriated Therefor", was adopted. (11-0).

- 3.6 (a) Adoption of the following 2005-2006 appropriation ordinance and funding sources resolution amendments in the Services for Redevelopment Capital Projects Fund (City-side Redevelopment Fund):**
- (1) Establish an appropriation to the Office of the City Manager for the Improvements at the San José Center for the Performing Arts Project in the amount of \$600,000.**
 - (2) Increase the estimate for Earned Revenue by \$600,000.**
- (b) Adoption of a resolution making certain determinations regarding the related expenditure of Redevelopment Agency funds on certain public improvements in connection with the Improvements at the San José Center for the Performing Arts Project, as more specifically described in the memorandum from the Redevelopment Agency, dated August 4, 2005.**
- CEQA: Not a Project. (City Manager's Office)**

Documents Filed: Memorandum from Budget Director Larry D. Lisenbee, dated August 29, 2005, recommending adoption of the appropriation ordinance and resolutions.

Action: Upon motion by Vice Mayor Chavez, seconded by Council Member Williams, and unanimously carried, Ordinance No. 27546, entitled: "An Ordinance of the City of San José Amending Ordinance No. 27474 to Appropriate Moneys in the Services for Redevelopment Capital Projects Fund for the San José Center for the Performing Arts Project; and Providing That This Ordinance Shall Become Effective Immediately Upon Adoption", Resolution No. 72891, entitled: "A Resolution of the Council of the City of San José Amending Resolution No. 72762 Setting Forth the Estimated Sources of Funds for the Fiscal Year 2005-2006 to Adjust Revenues in the Services for Redevelopment Capital Projects Fund", and Resolution No. 72892, entitled: "A Resolution of the Council of the City of San José Making Certain Determinations Regarding the Expenditure of Redevelopment Agency Funds for Certain Public Improvements in the Park Center Plaza Redevelopment Project Area", were adopted.

- 3.7 Adoption of a resolution approving the terms of a Memorandum of Agreement with the Confidential Employees' Organization (CEO), and authorizing the City Manager to execute the agreement, subject to ratification of the CEO membership. (City Manager's Office)**

Documents Filed: Memorandum from Director of Employee Relations Alex Gurza, dated September 19, 2005, recommending adoption of the resolution.

Public Comments: Deborah Powell

Action: Upon motion by Vice Mayor Chavez, seconded by Council Member Yeager, and unanimously carried, Resolution No. 72893, entitled: "A Resolution of the Council of the City of San José Approving a Memorandum of Agreement Between the City of San José and Confidential Employees' Organization (CEO) for the Period of September 25, 2005 Through September 20, 2006", was adopted.

**3.8 Adoption of a resolution urging Governor Arnold Schwarzenegger to sign Assembly Bill 849, The Religious Freedom and Civil Marriage Protection Act. (Yeager)
(Rules Committee referral 9/14/05)**

Documents Filed: Memorandum from Council Member Yeager, dated September 15, 2005, recommending adoption of the resolution.

Public Comments: Assemblymember Sally Lieber, Howard Wai, Helen Johnson, Patricia Gibbons, Philip H. Jensen, Armand D. Sanchez, Anthony Trazo, Chris Weber, Patrick Soricone, Michael Ellard, Leslie Bulbuk, Richard Poppen, Ruth Haber, Tim Bowman, Ted Johnson, Margo Tenold, Clark Williams, Evan Low, Kim Singh, Bill Halleck, Ross Signorino, James Kim, Robert Lindley, Didi Smith, and Claudia Shope spoke in support of the resolution.

Donald Stone, Jan Soule, Bill Buchholz, Michelle Hayton, Geoffrey Phillips, Randy Wing, Larry Pegram, and Bill Hughes spoke in opposition to the resolution.

Daniel MacCall spoke off-topic.

Action: Upon motion by Council Member Yeager, seconded by Vice Mayor Chavez, and unanimously carried, Resolution No. 72894, entitled: "A Resolution of the Council of the City of San José Urging Governor Arnold Schwarzenegger to Sign Assembly Bill 849, the Religious Freedom and Civil Marriage Protection Act", was adopted. (9-0). Noes. Reed; Gonzales.

COMMUNITY & ECONOMIC DEVELOPMENT

- 4.3 Adoption of a resolution modifying the Teacher Homebuyer Program adopted by the City Council on April 4, 2000, and amended on December 16, 2003, as follows:**
- (a) Increase the maximum loan amount from \$25,000 to \$40,000 for teacher households earning between 90% and 120% of Area Median Income.**
 - (b) Increase the maximum loan amount from \$40,000 to \$65,000 for teacher households earning less than 90% of Area Median Income.**

**CEQA: Not a Project. (Housing)
(Rules Committee referral 8/31/05)
(Deferred from 9/13/05 – Item 4.4)**

Documents Filed: Memorandum from Director of Housing Leslye Corsiglia, dated August 25, 2005, recommending adoption of the resolution.

4.3 (Cont'd.)

Action: Upon motion by Vice Mayor Chavez, seconded by Council Member Campos, and unanimously carried, Resolution No. 72895, entitled: 'A Resolution of the Council of the City of San José Modifying the Teacher Homebuyer Program Adopted by the City Council of the City of San José on April 4, 2000 and Amended on December 16, 2003', was adopted, with direction to staff to hold focus groups with teachers who have used the program and to investigate home equity opportunities. (9-0-2). Absent: Nguyen, Yeager.

4.4 **Approval of the 2004-2005 Consolidated Annual Performance Evaluation Report (CAPER). CEQA: Not a Project. (Housing/Parks, Recreation and Neighborhood Services)**

Documents Filed: (1) Supplemental memorandum from Director of Housing Leslye Corsiglia, dated September 1, 2005, providing the completed draft 2004-2005 Consolidated Annual Performance Evaluation Report (CAPER). (2) Supplemental memorandum from Director of Housing Leslye Corsiglia, dated September 19, 2005, providing corrections to the previous CAPER. (3) Memorandum from Director of Housing Leslye Corsiglia and Director of Parks, Recreation and Neighborhood Services Sara L. Hensley, dated August 29, 2005, recommending approval of the CAPER.

Action: Upon motion by Council Member Williams, seconded by Vice Mayor Chavez, and unanimously carried, the report was approved. (10-0-1). Absent: Nguyen.

- 4.5 (a) **Adoption of a resolution to authorize the City Manager to negotiate and execute an amendment with the Boys and Girls Clubs of Silicon Valley to carry out the Eastside Clubhouse Capital Project to increase the funding of \$750,000 by \$125,000 for a new amount not to exceed \$875,000, and continue and extend the Community Development Block Grant (CDBG) funding (Project F85) term from December 31, 2004 to June 30, 2006.**
- (b) **Adoption of the following appropriation ordinance amendments in the Council District 8 Construction and Conveyance Tax Fund (Fund 386).**
- (1) **Establish an appropriation to the Parks, Recreation and Neighborhood Services Department in the amount of \$125,000 for the Eastside Clubhouse Capital Project.**
- (2) **Decrease the Ending Fund Balance by \$125,000.**
- CEQA: Exempt, PP03-10-324. Council District 8. (Parks, Recreation and Neighborhood Services/City Manager's Office)**

Documents Filed: Memorandum from Director of Parks, Recreation and Neighborhood Services Sara L. Hensley and Budget Director Larry D. Lisenbee, dated September 15, 2005, recommending adoption of the ordinance and resolution.

4.5 (Cont'd.)

Action: Upon motion by Council Member Cortese, seconded by Council Member Reed, and unanimously carried, Ordinance No. 27547, entitled: “An Ordinance of the City of San José Amending Ordinance No. 27474 to Appropriate Moneys in the Council District #8 Construction Tax and Property Conveyance Tax Fund for the Eastside Clubhouse Capital Project; and Providing That This Ordinance Shall Become Effective Immediately Upon Adoption”, and Resolution No. 72896, entitled: “A Resolution of the Council of the City of San José Authorizing the City Manager to Negotiate and Execute an Amendment to the Agreement with the Boys and Girls Club of Silicon Valley to Carry Out the Eastside Clubhouse Capital Project to Increase the Funding of \$750,000 by \$125,000 for a New Amount Not to Exceed \$875,000 and to Continue and Extend the Community Development Block Grant (CDBG) Funding (Project F85) Term from December 31, 2004 to June 30, 2006”, were adopted.

NEIGHBORHOOD SERVICES

5.1 Report of the All Children Achieve Committee – September 8, 2005

Council Member Yeager, Chair

Documents Filed: The All Children Achieve Committee report of September 8, 2005..

- (a) Discuss PRNS Multi-Service Delivery System Impact on Schools. Attachment: Memorandum from Director of Parks, Recreation and Neighborhood Services Sara L. Hensley, dated August 24, 2005, updating the committee on the impact associated with the Parks, Recreation and Neighborhood Services (PRNS) Multi-Service Delivery System on schools.

The Committee accepted the report.

- (b) Review and Recommend Changes to Youth Commission Workplan. Attachment: Memorandum from Director of Parks, Recreation and Neighborhood Services Sara L. Hensley, dated August 24, 2005, recommending acceptance of the youth commissions’ report.

The Committee accepted the report.

- (c) Discuss San José After School Program Delivery Model and Impact on Student Performance. Attachment: Memorandum from Director of Parks, Recreation and Neighborhood Services Sara L. Hensley, dated August 25, 2005, providing a report to the All Children Achieve Committee on the annual evaluation of the San José After-School program for 2004-2005.

The Committee accepted the report. Staff was further directed to return to the Committee in December to give an update.

5.1 (Cont'd.)

- (d) Oral Petitions – None.
- (e) Adjournment
The meeting was adjourned at 2:22 p.m.

Action: Upon motion by Council Member Yeager, seconded by Vice Mayor Chavez, and unanimously carried, the All Children Achieve Committee Report and Actions of September 8, 2005 were accepted. (11-0).

ENVIRONMENTAL & UTILITY SERVICES

7.1 (a) Acceptance of the Status Report on cooperative efforts between the City of San José and the Santa Clara Valley Water District relating to:

- (1) Water Resources Protection Collaborative.**
- (2) Parks, Trails and Open Space Partnership.**
- (3) Water Supply for New Developments.**
- (4) Coyote Valley Specific Plan Coordination.**
- (5) Santa Clara Valley Habitat Conservation Plan and Natural Community Conservation Plan.**
- (6) Guadalupe Watershed Flood Protection Projects.**
- (7) Trash Removal from Creeks.**
- (8) South Bay Water Recycling Collaborative.**

(b) Adoption of a resolution supporting the work of the Water Resources Protection Collaborative on Proposed Guidelines and Standards and direction to the Administration to:

- (1) Develop and bring appropriate recommendations to Council, by February 2007, for incorporation of the Proposed Guidelines and Standards and the Proposed Implementing Tools into City land use processes.**
- (2) Participate in the Adaptive Management Process as appropriate to facilitate implementation of Council action on the Guidelines and Standards.**
- (3) Continue to work with the District to ensure early consultation on projects that affect the District.**
- (4) Continue participation in the Water Resources Protection Collaborative through February 2007.**

(c) Adoption of a resolution authorizing the City Manager to negotiate and execute a Continuation Agreement, to continue the term of the agreement between the City and the Santa Clara Valley Water District South Bay Water Recycling Cost Reimbursement through June 30, 2007.

CEQA: Trash Removal - Exempt, PP04-248; Water Recycling Program - Exempt, PP04-249. (Environmental Services/Public Works/Planning, Building and Code Enforcement/Parks, Recreation and Neighborhood Services)

7.1 (Cont'd.)

Documents Filed: Memorandum from Director of Environmental Service Carl W. Mosher, Director of Public Works Katy Allen, Director of Parks, Recreation and Neighborhood Services Sara L. Hensley, and Director of Planning, Building and Code Enforcement Stephen M. Haase, dated August 29, 2005, recommending acceptance of the status report.

Action: The report was accepted and Resolution No. 72897, entitled: "A Resolution of the Council of the City of San José Supporting the Work of the Water Resources Protection Collaborative and Providing Direction Related to Implementation of Proposed Guidelines and Standards Developed by the Collaborative into the City's Land Use Processes", and Resolution No. 72898, entitled: "A Resolution of the Council of the City of San José Authorizing the City Manager to Negotiate and Execute a Second Continuation Agreement for Reimbursement of Recycled Water Development and Utilization Costs with the Santa Clara Valley Water District to Continue the Term of the Agreement Through June 30, 2007", were adopted with direction to staff to provide follow-up information to Council District 2 regarding the status of work completed at the Metcalf site. (11-0).

7.2 **Public Hearing and approval of an ordinance granting a Commercial Solid Waste and Recyclables Collection Franchise to Pacific Coast Recycling, Inc. and approval of a Commercial Solid Waste and Recyclables Collection Franchise Agreement with Pacific Coast Recycling Inc. for a term of seven months from November 4, 2005 to June 30, 2006. CEQA: Negative Declaration, PP92-11-308. (Environmental Services)**

Documents Filed: Memorandum from Director of Environmental Service Carl W. Mosher, dated August 29, 2005, recommending approval of the ordinance. .

Action: Upon motion by Vice Mayor Chavez, seconded by Council Member Williams, and unanimously carried, the Public Hearing was held and Ordinance No. 27548, entitled: "An Ordinance of the City of San José Granting a Commercial Solid Waste and Recyclables Collection Franchise to Pacific Coast Recycling, Inc.", was passed for publication, with direction to staff to return to Council with an interim plan to deal with issues relating to customer service provide by franchises. (11-0).

PUBLIC SAFETY SERVICES

- 8.1**
- (a) Acceptance of staff report on initial cost assessments to send additional public safety personnel as requested by FEMA to assist with rescue and recovery efforts in the Gulf Coast Region, and to provide leave time for City Employees skilled to respond and assist with recovery and rebuilding efforts in the Gulf.**
 - (b) Adoption of a resolution extending the current City of San Jose enhanced military leave program related to terrorist attacks to City employees who are called to active military duty to provide services for Hurricane Katrina relief and recovery efforts.**
 - (c) Adoption of a resolution authorizing the City Manager to negotiate and execute an agreement with the Santa Clara Valley Red Cross in an amount not to exceed \$500,000 to support relief and recovery assistance as a result of Hurricane Katrina.**
 - (d) Adoption of the following 2005-2006 appropriation ordinance amendments in the General Fund:**
 - (1) Establish an appropriation in City-Wide to the City-Manager for Santa Clara Valley Red Cross Hurricane Katrina Relief in the amount of \$500,000.**
 - (2) Decrease the Contingency Reserve by \$500,000.**
- (Employee Relations/Fire/City Manager's Office)**
(Referred from 9/13/05 – Item 9.4)

Documents Filed: Memorandum from Director of Employee Relations Alex Gurza, Fire Chief Jeffrey L. Clet, and Budget Director Larry D. Lisenbee, dated September 19, 2005, recommending acceptance of the staff report, adoption of the resolutions and ordinance amendments.

Public Comments: Daniel MacCall, William J. Garbett spoke in support of the resolutions. Stephen Hazel expressed commentary on the issue of Hurricane Katrina, and Mark Trout spoke off-topic.

Action: Upon motion by Council Member Williams, seconded by Council Member Pyle, and unanimously carried, the report was accepted and Resolution No. 72899, entitled: "A Resolution of the Council of the City of San José Expanding the City of San José Military Leave Program to Include City Employees Who are Called to Active Military Duty Through the National Guard or Reserves to Assist with Hurricane Katrina Relief and Recovery Actions Related Efforts", Resolution No. 72900, entitled: "A Resolution of the Council of the City of San José Authorizing the City Manager to Negotiate and Execute an Agreement with the Santa Clara Valley Red Cross to Support Relief and Recovery Assistance as a Result of Hurricane Katrina in an Amount Not to Exceed \$500,000", and

8.1 (Cont'd.)

Ordinance No. 27549, entitled: "An Ordinance of the City of San José Amending Ordinance No. 27474 to Appropriate Moneys in the General Fund for the Santa Clara Valley Red Cross Hurricane Katrina Relief Fund; and Providing That This Ordinance Shall Become Effective Immediately Upon Adoption", were adopted. (11-0).

JOINT COUNCIL/REDEVELOPMENT AGENCY

The Redevelopment Agency Board convened at 4:40 p.m. to consider Item 9.1 in a Joint Session.

- 9.1 Adoption of a resolution to update the Master Parking Rate Schedule for Municipal On and Off Street Parking Facilities by establishing evening parking rates after 6:00 p.m. from Monday through Thursday at the 4th Street Parking Garage of \$0.75 for every 20 minutes, up to a maximum amount of \$5.00 per space beginning October 11, 2005, and to repeal Resolution No. 72639.
(Rules Committee referral 8/31/05)
(Deferred from 9/13/05 – Item 9.3)**

Documents Filed: (1) Memorandum from Mayor Gonzales, dated September 20, 2005, recommending staff direction contained therein. (2) Memorandum from City Manager Del D. Borgsdorf and Executive Director of Redevelopment Agency Harry S. Mavrogenes, dated September 14, 2005, recommending adoption of the resolution.

Discussion: Council Member Yeager stated he would not be supporting the motion due the lack of information to justify the rate increases.

Public Comments: Scott Knies spoke in support of the resolution.

Elizabeth Monley, William J. Garbett, Stephen Pustelnik, David Cohen, and Mark Trout spoke in opposition.

Action: Upon motion by Vice Mayor Chavez, seconded by Council Member Campos, and unanimously carried, Council approved a memorandum from Mayor Gonzales and Vice Mayor Chavez, dated September 20, 2005, recommending direction to staff to work with the Downtown Parking Board to update the Downtown Parking Management Plan to include, at a minimum: (a) Examine a rate schedule change for the 4th Street Garage that: Apply parking charges only until 7:30 p.m., so that parking would be free from 7:30 p.m. to 6:00 a.m. and to limit the change to Monday through Thursday; (b) Opportunities to use City (e.g. Parking Fund) or Redevelopment Agency resources to pay for or encourage existing private parking facilities to be available to the public on evenings and weekends; (c) Triggers for expanding, maintaining or phasing out the Free Parking program.(d) Methodologies to increase the supply of new parking spaces in the Downtown while preserving the fiscal health of the Parking Fund, and;

9.1 (Cont'd.)

Resolution No. 72901, entitled: "A Resolution of the Council of the City of San José a Master Parking Rate Schedule for Municipal On and Off Street Parking Facilities That Includes the Establishment of an Evening Parking Rate After 6 P.M. from Monday Through Thursday at the 4th Street Garage and to Repeal Resolution No. 72639 Effective October 11, 2005", was adopted. (10-1). Noes: Yeager.

The Redevelopment Agency Board portion of the meeting adjourned at 5:02 p.m.

OPEN FORUM—

- (1) Dan McCargundale spoke on the public hearing process for a specific project in his neighborhood.
- (2) Robert Apgar provided his personal thoughts on a number of issues.
- (3) Stephen Hazel voiced complaints about New City Hall furniture installations and labor related issues.
- (4) Mark Trout shared religious viewpoints.
- (5) Ross Signorino expressed support for the right to make personal choices.
- (6) William Garbett suggested the homeless be housed at the Old City Hall.

RECESS/RECONVENE

The City Council recessed at 6:15 p.m. and reconvened at 7.01 p.m. Council Chambers, City Hall.

Present: Council Members - Campos, Chavez, Chirco, Cortese, Dando, Pyle, Reed, Williams, Yeager; Gonzales.

Absent: Council Members - LeZotte (Excused).

The City Clerk Lee Price, read the requests for continuances of applications and other actions as recommended. Upon motion by Vice Mayor Chavez, seconded by Council Member Yeager, and unanimously carried, the below noted continuances were granted. (10-0-1). Absent: LeZotte.

PUBLIC HEARINGS

11.1 Public Hearings on Consent Calendar.

- (a) **Public Hearing on and consideration of approval of an ordinance on Planned Development Rezoning from R-M Multiple Residence Zoning District to A(PD) Planned Development Zoning District Rezoning to allow six single-family attached residences in an existing building on a gross 0.17 acre site, located on the east side of 10th Street, approximately 150 feet south of San Salvador Street (422 S. 10th Street) (José and Patricia Amaya, Owner). Director of Planning, Building and Code Enforcement and Planning Commission recommend approval (5-0-2). SNI: University. CEQA: Exempt. PDC05-025 - District 3**
[Continued from 8/16/05 – Item 11.5 and 8/30/05 – Item 11.1(a)]

11.1 (Cont'd.)

Documents Filed: (1) Memorandum from Secretary of the Planning Commission Stephen Haase, dated September 15, 2005, recommending approval of the rezoning. (2) Memorandum from Secretary of the Planning Commission Stephen Haase, dated September 8, 2005, transmitting the Department of Planning, Building, and Code Enforcement Staff Report on Project File Number PDC05-025, dated August 2, 2005, recommending approval of the planned development rezoning. (3) Memorandum from Secretary of the Planning Commission Stephen Haase, dated September 6, 2005, providing an analysis of the proposed rezoning.

Action: Upon motion by Council Member Williams, seconded by Council Member Pyle, and unanimously carried, Ordinance No. 27550, entitled: "An Ordinance of the City of San José Rezoning Certain Real Property Situated on the East Side of South 10th Street, Approximately 150 Feet South of San Salvador Street (422 South Tenth Street) to A(PD) Planned Development Zoning District", was passed for publication. (11-0).

- (b) **Public Hearing on and consideration of approval of an ordinance on Planned Development Rezoning from R-M Multiple Family Residence to A(PD) Planned Development Zoning District to allow up to 59 single-room occupancy (SRO) housing units on a 0.34 gross acre site, located on the west side of South 9th Street approximately 90 feet southerly of East William Street (525 S. 9th St.) (City of San José A Muni Corp, Owner; First Community Housing, Jeff Oberdorfer, Developer). SNI: University. CEQA: Exempt. Director of Planning, Building and Code Enforcement and Planning Commission recommend approval (6-0-1).
PDC05-020 - District 3**

Documents Filed: (1) Memorandum from Vice Mayor Chavez, dated September 20, 2005, recommending approval of the rezoning. (2) Memorandum from Secretary of the Planning Commission Stephen Haase, dated August 25, 2005, recommending approval of the proposed rezoning. (3) Department of Planning, Building, and Code Enforcement Staff Report on Project File Number PDC05-020, dated August 10, 2005, recommending approval of the planned development rezoning. (4) Proof of publication of Notice of Public Hearing, executed on August 12, 2005, submitted by the City Clerk.

Action: Upon motion by Council Member Vice Mayor Chavez, seconded by Council Member Yeager, and unanimously carried, Council approved a memorandum from Vice Mayor Chavez, dated September 20, 2005, recommending approval of the proposed rezoning as recommended by the Planning Commission and Staff with the following amendment: (1) Increase the number of required parking spaces from 19 to 22 spaces. Ordinance No. 27551, entitled: "An Ordinance of the City of San José Rezoning Certain Real Property Situated West Side of South 9th Street Approximately 90 Feet Southerly of East William Street (525 South 9th Street) to A(PD) Planned Development Zoning District", was passed for publication. (11-0).

- 11.1 (c) **Public Hearing on and consideration of approval of an ordinance on a Conforming Planned Development Rezoning from A(PD) Planned Development Zoning District to A(PD) Planned Development Zoning District to allow setback modification for Lot 57, one single-family detached residential unit on a 0.095 gross acre site (part of a previously approved Planned Development Zoning consisting of up to 112 single-family detached residences on a 13.7 gross acre site), located on the southwest corner of Rock Avenue and Oakland Road (9618 Tract) (Orchard Property, LLC, Owner; Taylor Woodrow Homes, Developer). CEQA: Director of Planning, Building and Code Enforcement and Planning Commission recommend approval No Planning Commission action required. Resolution No. 72045. PDC05-085 – District 4**

Documents Filed: (1) Department of Planning, Building, and Code Enforcement Staff Report on Project File Number PDC05-085, dated September 6, 2005, recommending approval of the planned development rezoning. (2) Proof of publication of Notice of Public Hearing, executed on September 9, 2005, submitted by the City Clerk.

Action: Upon motion by Council Member Williams, seconded by Council Member Pyle, and unanimously carried, Ordinance No. 27552, entitled: “An Ordinance of the City of San José Rezoning Certain Real Property Situated on the Southwest Corner of Rock Avenue and Oakland Road (Lot 57, Tract 9618) to A(PD) Planned Development Zoning District”, was passed for publication. (11-0).

ADJOURNMENT

The Council of the City of San José adjourned at 7:19 p.m. in memory of Andrea Naomi Leiderman, Director of Government and Corporate Relations, Kaiser Permanente, South Bay Public Affairs.

MINUTES OF THE CITY OF SAN JOSÉ/REDEVELOPMENT AGENCY BOARD

SAN JOSE, CALIFORNIA

TUESDAY, SEPTEMBER 13, 2005

The Council of the City of San José convened in Joint Session with the Redevelopment Agency Board at 5:15 p.m. in City Council Chambers at City Hall.

Present: Council Members: Campos, Chavez, Chirco, Cortese, LeZotte, Pyle, Reed, Williams, Yeager; Gonzales.

Absent: Council Members: None.

8.1 City Council and Redevelopment Agency Board acceptance of the St. James/Julian Area Parking Occupancy Report and direction to staff to conduct annual surveys of parking occupancy in the Study Area each October, beginning in 2006, with results reported to the City Council and Agency Board. [MERGED]

Documents Filed: Memorandum from Executive Director of Redevelopment Agency Harry S. Mavrogenes, dated September 20, 2005, recommending acceptance of the report.

Action: Upon motion by Board Member Chavez, seconded by Board Member Reed, and unanimously carried, the report was accepted. (8-1-0-1). Absent: LeZotte. Disqualified: Gonzales, due to personal conflict.

ADJOURNMENT

The Joint Council/Redevelopment Agency meeting was adjourned at 7:01 p.m.

RON GONZALES, MAYOR

ATTEST:

LEE PRICE, C.M.C, CITY CLERK
EW/9-20-05 Min.